IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 8TH MARCH 2007 / 17TH PHALGUNA 1928

WP(C).No. 33204 of 2006(C)

PETITIONER:

SHAJU ANTONY, S/O. N.C.ANTONY,
NEELANKAVIL HOUSE, LOURDUPURAM,
THRISSUR.

BY ADV. SRI.P.VIJAYA BHANU
SMT.K.S.CHANDRIKA

RESPONDENTS:

1. **THE ASSISTANT GENERAL MANAGER,**
   STATE BANK OF TRAVANCORE,
   REGIONAL OFFICE, THRISSUR.

2. **THE CHIEF MANAGER,**
   STATE BANK OF TRAVANCORE,
   AGRICULTURAL DEVELOPMENT BRANCH, THRISSUR.

3. **THE BRANCH MANAGER,**
   STATE BANK OF TRAVANCORE,
   AGRICULTURAL DEVELOPMENT BRANCH,
   KURUPPAM ROAD, THRISSUR.

4. **A.J.SIMON,**
   ARANGASSERY HOUSE, CHELAT LANE,
   THRISSUR.

5. **PHILIP MULAKKARAN,**
   MULAKKARAN HOUSE, PANCHIKKAL,
   AYYANTHOLE, THRISSUR.

BY ADV. SRI.M.PATHROSE MATTHAI (SR.) for R1 to R3
SRI.JACOB P.ALEX
SRI.RADHIKA RAJASEKHARAN P.
SRI.MILLU DANDAPANI for R4

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.33204/2006 C

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF NOTICE DTD. 12/06/2006 OF THE 3RD RESPONDENT.**

EXT.P2: **COPY OF SALE NOTICE DTD. 12/06/2006 OF THE 3RD RESPONDENT.**

EXT.P3: **COPY OF NOTICE DTD. 17/07/2006 OF THE 3RD RESPONDENT.**

EXT.P4: **COPY OF INTERIM ORDER DTD. 11/09/2006 IN WP(C) NO. 23630/06 OF THIS HONOURABLE COURT.**

EXT.P5: **COPY OF JUDGMENT IN W.P(C) NO.23630/06 DTD. 11/10/2006 OF THIS HONOURABLE COURT.**

EXT.P6: **COPY OF REPRESENTATION DATED 9/11/2006 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**

EXT.P7: **COPY OF LETTER DATED 14/11/2006 OF THE 3RD RESPONDENT.**

EXT.P8: **COPY OF LETTER DATED 6/12/2006 OF THE 3RD RESPONDENT.**

EXT.P9; **COPY OF INTERIM ORDER IN I.A.NO.4971/06 IN O.S.NO.165/04 OF THE PRL.SUB JUDGE, THRISSUR DTD. 31/08/2006.**

EXT.P10: **COPY OF LETTER DTD. 8/12/06 SUBMITTED BY THE PETITIONER TO THE 3RD RESPONDENT.**

/TRUE COPY/

KSS

Thottathil B. Radhakrishnan, J.

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W.P.(C)No.33204 of 2006

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Dated this the 8th day of March, 2007.

JUDGMENT

On 28-8-2006, a sale under the SARFAESI Act was held and the fourth respondent was the successful bidder. Thereafter, without him on the array of parties, Ext.P4 interlocutory order was passed by this Court staying the sale. That order was merged in Ext.P5 judgment again without the fourth respondent on the array issuing certain directions to the Bank. As of now, the third party, namely, the fourth respondent, has the legal right to have the property by having the sale confirmed in his favour on deposit of the entire balance consideration, which deposit has also been made by him. Such a sale could have been set aside only on the basis of the relevant statutory rules. Under such circumstances, the mere assertion of the petitioner that he is prepared to pay off the accrued interest and further interest to satisfy any claim of the fourth respondent is insufficient for this Court in writ jurisdiction to interfere with the impugned sale. No

other grounds raised. Writ petition fails. It is accordingly dismissed.

Thottathil B.Radhakrishnan,
Judge.

sl.